IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.8997 OF 2004

For Approval and Signature:

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT & ANR.

Versus

HEMENDRASINH RAMSINH RATHOD

Appearance:

1. Special Civil Application No. 8997 of 2004

MR. M.S. RAO, AGP for Petitioner Nos. 1-2

MR. KISHOR M. PAUL for Respondent

CORAM : HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 18/10/2004

ORAL JUDGEMENT

Rule.

Mr.K.M.Paul,learned Advocate, appears and waives service of Rule on behalf of the respondent.

2. The State of Gujarat, through the Secretary, Forest and Environment Department, with the Deputy Conservator of Forests, Junagadh, are before this Court

being aggrieved of judgement and award dated 20th May, 1999 passed by the Labour Court, Junagadh in Reference (LCJ) No.36 of 1997 as well as order dated 13th January, 2004 passed by the Labour Court, Junagadh in I.D. Miscellaneous Application No.41 of 2001 in Reference (LCJ) No.36 of 1997.

3. Mr.M.S.Rao, learned AGP appearing for the petitioners, pointed out an order dated 24th April, 2001 passed by this Court (Coram:D.C.Shrivastav, J.[as he then was]) disposing of the Special Civil Application No.6279 of 2000. The relevant part of the order reads as under:

> "Thus, on grounds of delay and laches and also on grounds of availability of alternative efficacious relief under Rule - 26 A of the Industrial Disputes Gujarat Rules, 1966, the petition is liable to be dismissed and is hereby dismissed with no order as to cost."

Mr.Rao submitted that it was thereafter that Miscellaneous Application No.41 of 2001 was filed on 8th August, 2001, but then, the same is dismissed by order dated 13th January, 2004, which is challenged in this petition along with judgement and award dated 20th May, 1999.

4. Mr.Rao, on instructions from Mr.J.R.Dhulia, Assistant Conservator of Forest, Junagadh, who is present before the Court, placed on record a copy of order dated 12th October, 2004 passed by the Deputy Conservator of Forest, Junagadh whereby one Shri N.H.Patel, Range Forest Officer (Extension Range), Keshod is punished for his negligence, in not representing the case of the Government before the Labour Court in Reference (LCJ) No.36 of 1997 by stoppage of one increment, without future effect.

5. Mr.K.M.Paul, learned Advocate for the respondent, at this stage submitted that in the earlier petition i.e. Special Civil Application No.6279 of 2000, this Court (Coram:P.B.Majmudar, J.) passed an order on 7th December, 2000, which reads as under:

> "The Special Civil Application is already admitted by this Court so far as interim relief is concerned, the same is confirmed subject to compliance with the provisions of Section 17B of the I.D.Act. The petitioner is directed to comply with the said provisions from the date of

the order of the Labour Court. The respondent is directed to file necessary affidavit in consonance with the provisions of Section 17B of the I.D.Act. Spl.C.A. is directed to be placed in the final hearing Board in the first week of April, 2001."

Mr.Paul submitted that this order is not complied with till date.

It is too late in a day to complain about the non-compliance of order dated 7th December, 2000. The main petition itself was disposed of by order dated 24th April, 2001. Mr.Paul submitted that as directed by the Court, an affidavit, in consonance with the provisions of Section-17(B) of the I.D.Act, was filed on 9th January, 2001. But then, the respondent-workman has not cared to enforce his rights and hence, his complaint cannot be entertained at this stage.

6. Taking into consideration the fact that the case of the Government was not presented before the learned Judge of the Labour Court, which led the learned Judge to pass the impugned judgement and award, the petition is allowed. The judgement and award dated 20th May, 1999 passed in Reference (LCJ) No.36 of 1997 and order dated 13th January, 2004 passed by the Labour Court, Junagadh in I.D. Miscellaneous Application No.41 of 2001 in Reference (LCJ) No.36 of 1997 are quashed and set aside.

Looking to the age of the ligation, the learned Judge of the Labour Court shall give priority to the hearing of the matter and decide the same as early as possible, but, not later than 30th April, 2005.

The petitioners are directed to pay a sum of Rs.7,500=00 to the respondent-workman within six weeks from the date of receipt of the order. The amount of costs shall be recovered from the erring officer viz. Shri N.H.Patel, Range Forest Officer. Rule is made absolute to the aforesaid extent.

(Ravi R. Tripathi, J.)
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